

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 00-0251
CORPORATE INCOME TAX
FOR TAX PERIODS: 1996-1998

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Issue

Adjusted Gross Income Tax: Imposition

Authority: IC 6-3-2-1 (b), 26 USC Sec. 63, IC 6-3-1-3.5 (b).

Taxpayer protests the imposition of the tax on certain receipts.

Statement of Facts

Taxpayer owns and operates several restaurants in Indiana and Ohio. After an audit, Taxpayer protested the assessment of additional Indiana Adjusted Gross Income Tax, interest and penalty. More facts will be provided as necessary.

Adjusted Gross Income Tax: Imposition

Discussion

Taxpayer claimed the "credit for employer social security and medicare taxes paid on certain employee tips" on its federal income tax returns for fiscal years ending October 31, 1996 and 1998. This credit was equal to the its FICA obligation attributable to tips received exceeding those tips treated as wages for purposes of satisfying the minimum wage provisions of the Fair Labor Standards Act. Indiana has not adopted this credit. In order to claim this credit on its Indiana Adjusted Gross Income Tax return, Taxpayer deducted the amount of the credit from its Indiana adjusted gross income. Taxpayer protests the disallowance of this modification.

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Page #2

Indiana imposes an adjusted gross income tax on corporations. IC 6-3-2-1 (b). A corporation's adjusted gross income is the same as the corporation's "taxable income" as defined at 26 USC Sec. 63 with certain modifications. IC 6-3-1-3.5 (b). The federal credit which Taxpayer deducted from its Indiana adjusted gross income is not a statutorily mandated modification for Indiana Adjusted Gross Income Tax purposes.

Finding

The taxpayer's protest is denied.

KA/BK/MR/00/11/08